

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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**JOSE PASTRANA and ZACARIAS
 HERNANDEZ,**
 individually,

Plaintiffs,

-against-

**MR. TACO LLC d/b/a MR. TACO NYC,
 ADRIAN GROSSMAN, and RICHARD DOE,**

Defendants.
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**MEMORANDUM DECISION &
 ORDER**

18-CV-9374 (GBD) (SN)

GEORGE B. DANIELS, United States District Judge:

Plaintiffs Jose Pastrana and Zacarias Hernandez bring this action against Defendants Mr. Taco, LLC, d/b/a Mr. Taco NYC, Adrian Grossman, and Richard Doe, seeking damages for Defendant's failure to pay Plaintiffs' minimum and overtime wages as required by the Fair Labor Standards Act ("FLSA") and New York Labor Law ("NYLL"). (ECF No. 1.) This Court granted Plaintiffs' motion for default judgment on July 11, 2019, (ECF Nos. 31-33), and referred the matter to Magistrate Judge Netburn for an inquest on damages, attorney's fees, costs, and interest. (*Id.*)

Before this Court is Magistrate Judge Netburn's September 23, 2022 Report and Recommendation (the "Report").¹ The Report recommended that this Court award Plaintiffs \$33,161.00 plus applicable prejudgment and post-judgment interest, as follows: Plaintiff Pastrana shall be awarded \$6,111.00 in wage and hour damages, plus nine percent prejudgment interest on Pastrana's wage and hour damages, calculated from September 15, 2018 to the date of judgment, and \$6,111.00 in liquidated damages. The Report recommended that Plaintiff Hernandez be

¹ The relevant factual and procedural background is set forth in greater detail in the Report and is incorporated by reference herein.

awarded \$8,180.00 in wage, hour, and unlawful tip withholding damages, plus nine percent prejudgment interest on Hernandez's wage and hour damages, calculated from September 15, 2018 to the date of judgment, and \$8,180.00 in liquidated damages. Judge Netburn recommended that this Court award Plaintiffs \$4,014.00 in attorneys' fees, and \$565.00 in costs, plus post-judgment interest on Plaintiffs' total monetary judgment.² (ECF No. 49, at 23, 29.) No objections to the Report were filed.

A court "may accept, reject, or modify, in whole or in part, the findings or recommendations" set forth in a magistrate judge's report. 28 U.S.C. § 636(b)(1)(C). A magistrate judge's report to which no objections are made is reviewed for clear error. *See Edwards v. Fischer*, 414 F. Supp. 2d 342, 346–47 (S.D.N.Y. 2006) (citations omitted). "In clear error review, a court should reverse a finding only if it is 'left with the definite and firm conviction that a mistake has been committed,' and not merely if it 'would have decided the case differently.'" *Hernandez v. City of New York*, No. 11 Civ. 6644 (KPF) (DF), 2015 WL 321830, at *2 (S.D.N.Y. Jan. 23, 2015) (quoting *Easley v. Cromartie*, 532 U.S. 234, 242 (2001)).

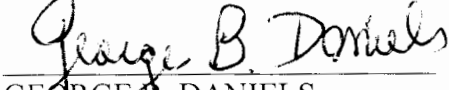
Magistrate Judge Netburn conducted a comprehensive and careful inquest. This Court finds no clear error in the Report's analysis. Accordingly, Magistrate Judge Netburn's Report is ADOPTED IN FULL. Because no objection was filed to the Report, Defendants have waived their rights of appeal from the judgment entered against them. *United States v. James*, 712 F.3d 79, 105 (2d Cir.2013), *cert. denied*, — U.S. —, 134 S.Ct. 2660, 189 L.Ed.2d 208 (2014).

² Plaintiffs shall be awarded post-judgment interest on their total monetary judgment, to be calculated at the federal rate from the date the Clerk of Court enters judgment until the date Defendants pay. 28 U.S.C. § 1961(a); *see Pappas v. Watson Wyatt & Co.*, 3:04CV304 (EBB), 2008 WL 350633 at *3 (D. Conn., Feb. 7, 2008) ("Under 28 U.S.C. § 1961, the Plaintiff is entitled to post-judgment interest on any money judgment in a civil case recovered in a district court. Courts have held that the phrase any money judgment includes a judgment awarding attorneys' fees.")

Final judgment shall be entered ordering Defendants to pay Plaintiffs \$33,161.00 plus applicable prejudgment and post-judgment interest, as follows: (1) \$6,111.00 in wage and hour damages to Plaintiff Pastrana, plus nine percent prejudgment simple interest, calculated from September 15, 2018, to the date of judgment; (2) \$8,180.00 in wage, hour, and unlawful tip withholding damages to Plaintiff Hernandez, plus nine percent prejudgment simple interest, calculated from September 15, 2018, to the date of judgment; (3) \$6,111.00 in liquidated damages to Plaintiff Pastrana; (4) \$8,180.00 in liquidated damages to Plaintiff Hernandez; (5) \$4,014.00 in attorneys' fees; and (6) \$565.00 in costs.

Dated: November 10, 2022
New York, New York

SO ORDERED.



GEORGE B. DANIELS
United States District Judge